

ATTESTATION ENGAGEMENT

Borough of Confluence

Somerset County, Pennsylvania

55-407

Liquid Fuels Tax Fund

For the Period

January 1, 2018 to December 31, 2020

April 2022



Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General



Commonwealth of Pennsylvania
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TIMOTHY L. DEFOOR
AUDITOR GENERAL

Independent Auditor's Report

The Honorable Yassmin Gramian, P.E.
Secretary
Department of Transportation
Harrisburg, PA 17120

We examined the accompanying Forms MS-965 With Adjustments for the Liquid Fuels Tax Fund of the Borough of Confluence, Somerset County, for the period January 1, 2018 to December 31, 2020. The municipality's management is responsible for presenting the Forms MS-965 in accordance with the criteria described in the Background section of this report and the Department of Transportation's *Publication 9*. Our responsibility is to express an opinion on the Forms MS-965 With Adjustments based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Forms MS-965 are presented in accordance with the criteria described above, in all material respects. An examination involves performing procedures to obtain evidence about the Forms MS-965. The nature, timing and extent of the procedures selected depend on our judgement, including an assessment of the risks of material misstatement of the Forms MS-965, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our opinion.

As described in the Auditor Description Of Select Transactions section of this report, the adjustments included on the Forms MS-965 With Adjustments are made by the Department of the Auditor General.

As discussed in the Finding No. 1, the borough made related party transactions of \$1,250.00 during 2018 and \$2,467.00 during 2019 from its Liquid Fuels Tax Fund.

Independent Auditor's Report (Continued)

In our opinion, except for the matters discussed in the preceding paragraph, the Forms MS-965 With Adjustments present, in all material respects, the information required by the Pennsylvania Department of Transportation for the Liquid Fuels Tax Fund of the Borough of Confluence, Somerset County, for the period January 1, 2018 to December 31, 2020, in accordance with the criteria described in the Background section of this report and the Department of Transportation's *Publication 9*.

In accordance with *Government Auditing Standards*, we are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses in internal control; fraud and noncompliance with provisions of laws or regulations that have a material effect on the Forms MS-965; and any other instances that warrant the attention of those charged with governance; noncompliance with provisions of contracts or grant agreements, and abuse that has a material effect on the Forms MS-965. We are also required to obtain and report the views of responsible officials concerning the findings, conclusions, and recommendations, as well as any planned corrective actions. We performed our examination to express an opinion on whether the Forms MS-965 are presented in accordance with the criteria described above and not for the purpose of expressing an opinion on internal control over reporting on the Forms MS-965 or on compliance and other matters; accordingly, we express no such opinions.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. *A material weakness* is a deficiency, or combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the Forms MS-965 will not be prevented, or detected and corrected, on a timely basis. *A significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over reporting on the Forms MS-965 was for the limited purpose of expressing an opinion on whether the Forms MS-965 are presented in accordance with the criteria described above and would not necessarily identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our engagement we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

As part of obtaining reasonable assurance about whether the Forms MS-965 are free from material misstatement, we performed tests of Borough of Confluence, Somerset County's compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of amounts on the Forms MS-965. However, providing an opinion on compliance with those provisions was not an objective of our engagement, and accordingly, we do not express such an opinion. The results of our tests disclosed the following instance of noncompliance that is required to be reported under *Government Auditing Standards*:

- Related Party Transactions.

Independent Auditor's Report (Continued)

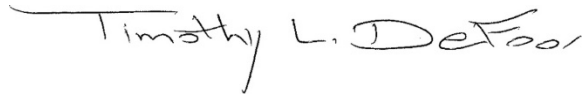
We also noted matter that, while not required to be included in this report by *Government Auditing Standards*, has been included in the finding below:

- Late Receipt Of Allocation - Recurring.

The examination finding for late receipt of allocation contained in this report cites a condition that existed in the operation of the municipality during the previous engagement period and was not corrected during the current examination period. The municipality should strive to comply with the recommendations in this report.

The purpose of this report is to determine whether the municipality's Liquid Fuels Tax Fund money is spent in accordance with the laws and regulations identified in the Background section of this report and the Department of Transportation's *Publication 9*. This report is not suitable for any other purpose.

We appreciate the courtesy extended by the Borough of Confluence, Somerset County, to us during the course of our examination. If you have any questions, please feel free to contact the Bureau of County Audits at 717-787-1363.

A handwritten signature in black ink that reads "Timothy L. DeFoor". The signature is written in a cursive style with a long horizontal line extending to the left of the first letter.

Timothy L. DeFoor
Auditor General
March 28, 2022

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BOROUGH OF CONFLUENCE
SOMERSET COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2020

Background

The Liquid Fuels Tax Municipal Allocation Law, Act 655 of 1956, as amended, (72 P.S. § 2615.5 et seq.), provides municipalities other than counties (townships, boroughs, cities, towns, home rule, and optional plan governments) with an annual allocation of liquid fuels taxes from the state's Motor License Fund to be used for the maintenance and repair of streets, roads, and bridges for which the municipality is responsible. The allocation of these funds to municipalities is based: (1) 50 percent on the municipality's proportion of local road mileage to the total local road mileage in the state, and (2) 50 percent on the proportion of a municipality's population to the total population in the state.

The Vehicle Code, Title 75 P.S. § 9511, provides municipalities with annual maintenance payments to be received from the Motor License Fund for functionally local highways that were transferred to a municipality from the Commonwealth of Pennsylvania.

Each municipality must deposit the allocation of Liquid Fuels Tax funds and annual maintenance payments that it receives into a special fund called either the Municipal Liquid Fuels Tax Fund or State Fund. A municipality may not deposit any other monies into this fund except when the municipality does not have enough money in the special fund to meet the payments called for by its current annual budget for road and bridge purposes. In such a case, the municipality may borrow money or transfer money from its General Fund to its Liquid Fuels Tax Fund.

The Department of Transportation has been given the regulatory authority for the administration of these funds. Department of Transportation's *Publication 9* includes the policies and procedures for the administration of Act 655, as amended, and the Liquid Fuels Tax Fund money. However, if there is a difference between *Publication 9* and any legislation, the legislation shall govern.

To qualify for the annual allocation of Liquid Fuels Tax funds, *Publication 9* indicates that each municipality shall:

1. Submit annual reports (MS-965, Actual Use Report, MS-965P, Project and Miscellaneous Receipts, and MS-965S, Record of Checks).
2. Make deposits and payments or expenditures in compliance with Act 655 of 1956, as amended. Failure to do so may result in not receiving allocations from PennDOT until all discrepancies are resolved. *Publication 9*, Section 2.6, includes information about investing Liquid Fuels Tax monies, using loan or bond proceeds, and types of receipts into the Liquid Fuels Tax Fund.

BOROUGH OF CONFLUENCE
SOMERSET COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2020

Background (Continued)

3. Submit the Pennsylvania Department of Community and Economic Development's (DCED) Report of Elected and Appointed Officials by January 31st and the Survey of Financial Condition By March 15th.
4. Ensure resolution of all Contractor Responsibility Program (CRP) holds and blocks imposed by the Department of Revenue and the Department of Labor and Industry.
5. Ensure resolution of all reimbursements required as a result of audits performed by the Department of the Auditor General or monitoring reviews performed by the Department of Transportation's Financial Consultants.

Criteria

The criteria for the Form MS-965 With Adjustment are described below.

Section 1 of Form MS-965 With Adjustments provides a summary of Liquid Fuels Tax Fund expenditures by category. Categories requiring explanation include:

- Major equipment purchases are purchases of road machinery and road equipment with varying yearly costs in excess of the amounts indicated below:

| 2017 | 2018 | 2019 | 2020 |
|-------------|-------------|-------------|-------------|
| \$10,700.00 | \$10,900.00 | \$11,100.00 | \$11,300.00 |

- Minor equipment purchases are purchases of road machinery and road equipment with varying yearly costs that are less than or equal to the amounts indicated below:

| 2017 | 2018 | 2019 | 2020 |
|-------------|-------------|-------------|-------------|
| \$10,700.00 | \$10,900.00 | \$11,100.00 | \$11,300.00 |

- Agility projects are exchanges of services with the Department of Transportation.

BOROUGH OF CONFLUENCE
SOMERSET COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2020

Background (Continued)

Section 2 of Form MS-965 With Adjustments provides information on the fund balance. Categories requiring explanation include:

- The state allocation is available from the Department of Transportation in March of each year. The amount the municipality receives is based half on its population and half on its road mileage.
- Municipalities that transferred roads from the Commonwealth of Pennsylvania to the municipality through the Highway Transfer Program receive annual turnback allocations in March of each year from the Department of Transportation. Turnback allocations are based on the mileage of the roads transferred.
- Expenditures include the total transferred from Section 1.

Section 3 of Form MS-965 With Adjustments determines if the municipality expended Liquid Fuels Tax Fund money in excess of the permissible amount for equipment and the balance that the municipality may carry forward for the purchase of equipment to the subsequent year.

Department of Transportation *Publication 9* requires that the amount expended for equipment purchases in a given year not exceed the sum of the equipment balance carried forward from the previous year and 20 percent of the current year's Liquid Fuels Tax Fund allocation and, if applicable, 20 percent of the turnback allocation plus other Department of Transportation approved adjustments.

If the municipality spent in excess of the amount listed on Line 4, the excess must be reimbursed to the Liquid Fuels Tax Fund.

The equipment balance to be carried forward for the subsequent year is the lesser of the amount on Line 6 or the ending fund balance on Line 6 of Section 2, but not less than zero.

BOROUGH OF CONFLUENCE
SOMERSET COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2020

Background (Continued)

Basis of Presentation

The financial activities of the municipality are accounted for in separate funds. The Liquid Fuels Tax Fund is used to account for state aid revenues from the Pennsylvania Department of Transportation used primarily for building and improving local roads and bridges. The Form MS-965 has been prepared in accordance with reporting requirements prescribed by the Pennsylvania Department of Transportation as a result of the Fuels Tax Act 655, dated 1956 and as amended, which does not constitute a complete presentation of the entity's assets, liabilities, expenses, and fund balance. Accordingly, the presentation of Form MS-965 With Adjustments is restricted to the Liquid Fuels Tax Fund, which represents a segment of the entity.

Basis Of Accounting

The accompanying Form MS-965 With Adjustments is prepared in accordance with reporting requirements prescribed by the Pennsylvania Department of Transportation. Under this method, revenues are recognized when received and expenditures are recorded when paid.

General Fixed Assets

General fixed assets are recognized as expenditures at the time of purchase. No depreciation has been provided on the heavy equipment used to maintain and repair roads and bridges.

BOROUGH OF CONFLUENCE
SOMERSET COUNTY
LIQUID FUELS TAX FUND
2018 FORM MS-965 – SECTION 1
WITH ADJUSTMENTS

| <u>Expenditure Summary</u> | <u>Reported</u> | <u>Adjustments</u> | <u>Adjusted Amount</u> |
|---|---------------------|--------------------|----------------------------|
| Minor equipment purchases | \$ - | \$ - | \$ - |
| Computer/Computer related training | - | - | - |
| Major equipment purchases | - | - | - |
| Agility projects | - | - | - |
| Cleaning streets and gutters | - | - | - |
| Winter maintenance services | 180.00 | - | 180.00 |
| Traffic control devices | - | - | - |
| Street lighting | 10,157.74 | - | 10,157.74 |
| Storm sewers and drains | - | - | - |
| Repairs of tools and machinery | - | - | - |
| Maintenance and repair of roads and bridges | 14,401.60 | - | 14,401.60 |
| Highway construction and rebuilding projects | - | - | - |
| Miscellaneous | 65.81 | - | 65.81 |
| | <u> </u> | <u> </u> | <u> </u> |
| Total (To Section 2, Line 5) | <u>\$ 24,805.15</u> | <u>\$ -</u> | <u>\$ 24,805.15</u> |

BOROUGH OF CONFLUENCE
SOMERSET COUNTY
LIQUID FUELS TAX FUND
2018 FORM MS-965 – SECTION 2
WITH ADJUSTMENTS

| <u>Fund Balance</u> | <u>Reported</u> | <u>Adjustments</u> | <u>Adjusted Amount</u> |
|-------------------------------|----------------------------|--------------------|----------------------------|
| 1. Balance, January 1, 2018 | \$ 16,890.98 | \$ - | \$ 16,890.98 |
| Receipts: | | | |
| 2. State allocation | 36,771.59 | - | 36,771.59 |
| 2a. Turnback allocation | 640.00 | - | 640.00 |
| 2b. Interest on investments | 552.49 | - | 552.49 |
| 2c. Miscellaneous | - | - | - |
| 3. Total receipts | <u>37,964.08</u> | <u>-</u> | <u>37,964.08</u> |
| 4. Total funds available | <u>54,855.06</u> | <u>-</u> | <u>54,855.06</u> |
| 5. Expenditures (Section 1) | <u>24,805.15</u> | <u>-</u> | <u>24,805.15</u> |
| 6. Balance, December 31, 2018 | <u><u>\$ 30,049.91</u></u> | <u><u>\$ -</u></u> | <u><u>\$ 30,049.91</u></u> |

BOROUGH OF CONFLUENCE
SOMERSET COUNTY
LIQUID FUELS TAX FUND
2018 FORM MS-965 – SECTION 3
WITH ADJUSTMENTS

| <u>Equipment Balance</u> | <u>Reported</u> | <u>Adjustments</u> | <u>Adjusted Amount</u> |
|---|---------------------|--------------------|----------------------------|
| 1. Prior year equipment balance | \$ 16,890.98 | \$ - | \$ 16,890.98 |
| 2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2) | 7,482.32 | - | 7,482.32 |
| 3. PENNDOT approved adjustments | <u>-</u> | <u>-</u> | <u>-</u> |
| 4. Total funds available for equipment acquisition | 24,373.30 | - | 24,373.30 |
| 5. Less: Major equipment expenditures | <u>-</u> | <u>-</u> | <u>-</u> |
| 6. Remainder | <u>24,373.30</u> | <u>-</u> | <u>24,373.30</u> |
| 7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero) | <u>\$ 24,373.30</u> | <u>\$ -</u> | <u>\$ 24,373.30</u> |

BOROUGH OF CONFLUENCE
SOMERSET COUNTY
LIQUID FUELS TAX FUND
2019 FORM MS-965 – SECTION 1
WITH ADJUSTMENTS

| <u>Expenditure Summary</u> | <u>Reported</u> | <u>Adjustments</u> | <u>Adjusted Amount</u> |
|---|---------------------|--------------------|----------------------------|
| Minor equipment purchases | \$ - | \$ - | \$ - |
| Computer/Computer related training | - | - | - |
| Major equipment purchases | - | - | - |
| Agility projects | - | - | - |
| Cleaning streets and gutters | - | - | - |
| Winter maintenance services | - | - | - |
| Traffic control devices | 1,005.90 | - | 1,005.90 |
| Street lighting | 8,565.88 | - | 8,565.88 |
| Storm sewers and drains | - | - | - |
| Repairs of tools and machinery | - | 700.14 | 700.14 |
| Maintenance and repair of roads and bridges | 32,450.36 | - | 32,450.36 |
| Highway construction and rebuilding projects | - | - | - |
| Miscellaneous | 700.14 | (700.14) | - |
| | <u>700.14</u> | <u>(700.14)</u> | <u>-</u> |
| Total (To Section 2, Line 5) | <u>\$ 42,722.28</u> | <u>\$ -</u> | <u>\$ 42,722.28</u> |

BOROUGH OF CONFLUENCE
SOMERSET COUNTY
LIQUID FUELS TAX FUND
2019 FORM MS-965 – SECTION 2
WITH ADJUSTMENTS

| <u>Fund Balance</u> | <u>Reported</u> | <u>Adjustments</u> | <u>Adjusted Amount</u> |
|-------------------------------|----------------------------|--------------------|----------------------------|
| 1. Balance, January 1, 2019 | \$ 30,049.91 | \$ - | \$ 30,049.91 |
| Receipts: | | | |
| 2. State allocation | 37,635.77 | - | 37,635.77 |
| 2a. Turnback allocation | 640.00 | - | 640.00 |
| 2b. Interest on investments | 938.79 | - | 938.79 |
| 2c. Miscellaneous | - | - | - |
| 3. Total receipts | <u>39,214.56</u> | <u>-</u> | <u>39,214.56</u> |
| 4. Total funds available | <u>69,264.47</u> | <u>-</u> | <u>69,264.47</u> |
| 5. Expenditures (Section 1) | <u>42,722.28</u> | <u>-</u> | <u>42,722.28</u> |
| 6. Balance, December 31, 2019 | <u><u>\$ 26,542.19</u></u> | <u><u>\$ -</u></u> | <u><u>\$ 26,542.19</u></u> |

BOROUGH OF CONFLUENCE
SOMERSET COUNTY
LIQUID FUELS TAX FUND
2019 FORM MS-965 – SECTION 3
WITH ADJUSTMENTS

| <u>Equipment Balance</u> | <u>Reported</u> | <u>Adjustments</u> | <u>Adjusted Amount</u> |
|---|---------------------|--------------------|----------------------------|
| 1. Prior year equipment balance | \$ 24,473.30 | \$ - | \$ 24,473.30 |
| 2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2) | 7,655.15 | - | 7,655.15 |
| 3. PENNDOT approved adjustments | <u>-</u> | <u>-</u> | <u>-</u> |
| 4. Total funds available for equipment acquisition | 32,128.45 | - | 32,128.45 |
| 5. Less: Major equipment expenditures | <u>-</u> | <u>-</u> | <u>-</u> |
| 6. Remainder | <u>32,128.45</u> | <u>-</u> | <u>32,128.45</u> |
| 7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero) | <u>\$ 26,542.19</u> | <u>\$ -</u> | <u>\$ 26,542.19</u> |

BOROUGH OF CONFLUENCE
SOMERSET COUNTY
LIQUID FUELS TAX FUND
2020 FORM MS-965 – SECTION 1
WITH ADJUSTMENTS

| <u>Expenditure Summary</u> | <u>Reported</u> | <u>Adjustments</u> | <u>Adjusted Amount</u> |
|---|---------------------|--------------------|----------------------------|
| Minor equipment purchases | \$ - | \$ - | \$ - |
| Computer/Computer related training | - | - | - |
| Major equipment purchases | - | - | - |
| Agility projects | - | - | - |
| Cleaning streets and gutters | - | - | - |
| Winter maintenance services | 932.51 | - | 932.51 |
| Traffic control devices | - | - | - |
| Street lighting | 9,394.26 | - | 9,394.26 |
| Storm sewers and drains | - | - | - |
| Repairs of tools and machinery | - | - | - |
| Maintenance and repair of roads and bridges | 1,486.98 | - | 1,486.98 |
| Highway construction and rebuilding projects | - | - | - |
| Miscellaneous | - | - | - |
| | <hr/> | <hr/> | <hr/> |
| Total (To Section 2, Line 5) | <u>\$ 11,813.75</u> | <u>\$ -</u> | <u>\$ 11,813.75</u> |

BOROUGH OF CONFLUENCE
SOMERSET COUNTY
LIQUID FUELS TAX FUND
2020 FORM MS-965 – SECTION 2
WITH ADJUSTMENTS

| <u>Fund Balance</u> | <u>Reported</u> | <u>Adjustments</u> | <u>Adjusted Amount</u> |
|-------------------------------|----------------------------|--------------------|----------------------------|
| 1. Balance, January 1, 2020 | \$ 26,542.19 | \$ - | \$ 26,542.19 |
| Receipts: | | | |
| 2. State allocation | 36,624.62 | - | 36,624.62 |
| 2a. Turnback allocation | 640.00 | - | 640.00 |
| 2b. Interest on investments | 128.91 | - | 128.91 |
| 2c. Miscellaneous | - | - | - |
| 3. Total receipts | <u>37,393.53</u> | <u>-</u> | <u>37,393.53</u> |
| 4. Total funds available | <u>63,935.72</u> | <u>-</u> | <u>63,935.72</u> |
| 5. Expenditures (Section 1) | <u>11,813.75</u> | <u>-</u> | <u>11,813.75</u> |
| 6. Balance, December 31, 2020 | <u><u>\$ 52,121.97</u></u> | <u><u>\$ -</u></u> | <u><u>\$ 52,121.97</u></u> |

BOROUGH OF CONFLUENCE
SOMERSET COUNTY
LIQUID FUELS TAX FUND
2020 FORM MS-965 – SECTION 3
WITH ADJUSTMENTS

| <u>Equipment Balance</u> | <u>Reported</u> | <u>Adjustments</u> | <u>Adjusted Amount</u> |
|---|---------------------|--------------------|----------------------------|
| 1. Prior year equipment balance | \$ 26,542.19 | \$ - | \$ 26,542.19 |
| 2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2) | 7,452.92 | - | 7,452.92 |
| 3. PENNDOT approved adjustments | <u>-</u> | <u>-</u> | <u>-</u> |
| 4. Total funds available for equipment acquisition | 33,995.11 | - | 33,995.11 |
| 5. Less: Major equipment expenditures | <u>-</u> | <u>-</u> | <u>-</u> |
| 6. Remainder | <u>33,995.11</u> | <u>-</u> | <u>33,995.11</u> |
| 7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero) | <u>\$ 33,995.11</u> | <u>\$ -</u> | <u>\$ 33,995.11</u> |

BOROUGH OF CONFLUENCE
SOMERSET COUNTY
LIQUID FUELS TAX FUND
AUDITOR DESCRIPTION OF SELECT TRANSACTIONS
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2020

The following information relates to certain types of transactions for which the Pennsylvania Department of Transportation requested that we provide additional detail.

Adjustments

2019 - Section 1

Adjustments were made to “Miscellaneous” and “Repairs of tools and machinery” because expenditures of \$700.14 were misclassified.

Miscellaneous Expenditures

On June 28, 2018, the municipality expended \$65.81 from the Liquid Fuels Tax Fund for a bank service charge.

BOROUGH OF CONFLUENCE
SOMERSET COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2020

Finding No. 1 - Related Party Transactions

Our examination disclosed that the borough expended \$1,250.00 during 2018 and \$2,467.00 during 2019 from the Liquid Fuels Tax Fund for backhoe services provided by a company owned by the borough manager. The expenditures were for services to operate the backhoe and for rent of the backhoe. Because the expenditures were made to a company owned by the borough manager, a related party, the borough was required to award a contract for these services through the public bid process; however, this did not occur. Additionally, no contract was created between the service provider and the borough. Accordingly, the services provided in 2018 and 2019 appear to violate *The Borough Code*. Therefore, the purchases should not have been entered into by the borough.

The Borough Code, 53 P.S. § 46404, as amended, states, in part:

. . . no borough official, either elected or appointed, or township employee who knows, or who by the exercise of reasonable diligence could know, shall be interested to any appreciable degree, either directly or indirectly, in any purchase made or contract entered into or expenditure of money made by the borough or relating to the business of the borough, involving the expenditure by the borough of more than one thousand dollars (\$1000.00) in any calendar year, but this limitation shall not apply to cases where such officer or appointee of the borough is an employee of the person, firm or corporation to which the money is to be paid in a capacity with no possible influence on the transaction and in which he cannot be possibly benefited thereby either financially or otherwise. But in the case of a councilman or mayor, if he knows that he is within the exception just mentioned he shall so inform council and shall refrain from voting on the expenditure or any ordinance relating thereto, and shall in no manner participate therein. . . .

This information is also published in § 1404 of *The Borough Code* as published by the Local Government Commission.

Because these purchases violate *The Borough Code*, the borough could be required by the Pennsylvania Department of Transportation to reimburse \$3,717.00 to its Liquid Fuels Tax Fund.

This condition occurred because borough officials were not aware of the requirements for open and public award processes for purchases from a company owned by the borough manager.

BOROUGH OF CONFLUENCE
SOMERSET COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2020

Finding No. 1 - Related Party Transactions (Continued)

Recommendations

We recommend that the borough reimburse \$3,717.00 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the borough complies with *The Borough Code* as stated above.

Management's Response

The Secretary/Treasurer stated:

Thank you for bringing this to their attention. All funds for the backhoe service will be refunded back to the state fund in the total. All equipment needs will be advertised for bids and be handled correctly moving forward.

Auditor's Conclusion

During our next examination, we will determine if the borough complied with our recommendations.

BOROUGH OF CONFLUENCE
SOMERSET COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2020

Finding No. 2 - Late Receipt Of Allocation - Recurring

We cited the municipality for receiving its allocation late in our prior report for the period January 1, 2016 to December 31, 2017. Our current examination disclosed that the 2020 Liquid Fuels Tax Fund allocation of \$36,624.62 which should have been distributed from the Department of Transportation to the municipality during the first week of March of that year, was not received until June 4, 2020, because the municipality failed to comply with the Department of Transportation's *Publication 9*, Chapter Two, Section 2.4, which states:

To qualify for the annual liquid fuels tax allocation, a municipality shall:

- Submit annual reports (MS-965, Actual Use Report, MS-965P, Project and Miscellaneous Receipts, and MS-965S, Record of Checks).
- Make deposits and payments or expenditures in compliance with the Act 655. Failure to do so may result in not receiving allocations from PENNDOT until all discrepancies are resolved.
- Submit the Pennsylvania Department of Community and Economic Development's (DCED) Report of Elected and Appointed Officials by January 31st and the Survey of Financial Condition by March 15th.
- Ensure resolution of all Contractor Responsibility Program (CRP) holds and blocks imposed by the Department of Revenue and the Department of Labor and Industry.
- Ensure resolution of all reimbursements required as a result of audits performed by the Department of the Auditor General or monitoring reviews performed by the Department of Transportation's Financial Consultants.

Because the municipality failed to file documents and information timely as noted above, the municipality did not have use of the 2020 allocation for three months. Furthermore, had the allocation been received timely, money may have been available for investment purposes, potentially earning interest income which could have been used for road maintenance and repairs.

This condition occurred because the borough did not receive its allocation timely because borough officials did not file its Survey of Financial Conditions until May 18, 2020.

BOROUGH OF CONFLUENCE
SOMERSET COUNTY
LIQUID FUELS TAX FUND
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2020

Finding No. 2 - Late Receipt Of Allocation (Continued)

Recommendation

We again, recommend that, in the future, the municipality complies with the Department of Transportation's *Publication 9* to ensure that the allocations are received during the first week in March as outlined above.

Management's Response

The Secretary/Treasurer stated:

We agree with finding.

Auditor's Conclusion

This is a recurring finding. We strongly recommend that the municipality complies with our recommendation. During our next examination we will determine if the municipality complied with our recommendation.

BOROUGH OF CONFLUENCE
SOMERSET COUNTY
LIQUID FUELS TAX FUND
SUMMARY OF PRIOR EXAMINATION RECOMMENDATION
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2020

Summary Of Prior Examination Recommendation

In our prior report, we recommended that the municipality file all required documents and information timely to receive its allocation during the first week in March.

During our current examination, we noted that the municipality did not comply with our recommendation (see Finding No. 2).

BOROUGH OF CONFLUENCE
SOMERSET COUNTY
LIQUID FUELS TAX FUND
SUMMARY OF EXIT CONFERENCE
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2020

An exit conference was held August 25, 2021. Those participating were:

BOROUGH OF CONFLUENCE

Mrs. Lori A. Schroyer, Secretary/Treasurer

DEPARTMENT OF THE AUDITOR GENERAL

Mr. Ronald J. Fairman, Auditor

The results of the examination were presented and discussed in their entirety.

BOROUGH OF CONFLUENCE
SOMERSET COUNTY
LIQUID FUELS TAX FUND
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2020

This report was initially distributed to:

The Honorable Yassmin Gramian, P.E.
Secretary
Department of Transportation

Borough of Confluence
Somerset County
71 Logan Place
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The Honorable David Lytle
President of Council

Mrs. Lori A. Schroyer
Secretary/Treasurer

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